

IC 20-12-1.3

Chapter 1.3. Powers and Duties of Trustees Related to Swap Agreements

IC 20-12-1.3-1

Construction and application of chapter

Sec. 1. This chapter applies notwithstanding any other law and shall be liberally construed.

As added by P.L.55-1994, SEC.2.

IC 20-12-1.3-2

"Obligations" defined

Sec. 2. As used in this chapter, "obligations" mean bonds, notes, bond anticipation notes, commercial paper, leases, lease-purchases, installment purchases, certificates of participation in agreements or programs, other evidences of indebtedness, or other agreements or purchasing programs.

As added by P.L.55-1994, SEC.2.

IC 20-12-1.3-3

"State educational institution" defined

Sec. 3. As used in this chapter, "state educational institution" has the meaning set forth in IC 20-12-0.5-1.

As added by P.L.55-1994, SEC.2.

IC 20-12-1.3-4

"Swap agreements" defined

Sec. 4. As used in this chapter, "swap agreement" refers to:

- (1) an agreement (including terms and conditions incorporated by reference in the agreement) that is a rate swap agreement, basis swap, forward rate agreement, interest rate option, rate cap agreement, rate floor agreement, rate collar agreement, or any other similar agreement (including any option to enter into any of the agreements described in this subdivision);
- (2) any combination of the agreements described in subdivision (1); or
- (3) a master agreement for an agreement or a combination of agreements described in subdivision (1) or (2), together with all supplements to the agreement.

As added by P.L.55-1994, SEC.2.

IC 20-12-1.3-5

Powers and duties of state educational institutions

Sec. 5. (a) Subject to subsections (b) through (d), any state educational institution may enter into and modify, amend, or terminate one (1) or more swap agreements that the state educational institution determines to be necessary or desirable in connection with or incidental to the issuance, carrying, or securing of obligations. Swap agreements entered into by a state educational institution shall:

- (1) contain the provisions (including payment, term, security,

default, and remedy provisions); and
(2) be with the parties;
that the state educational institution determines are necessary or desirable after due consideration is given to the creditworthiness of the parties.

(b) A state educational institution may not:

- (1) enter into any swap agreement under this section other than for the purpose of managing an interest rate or similar risk that arises in connection with or incidental to the issuance, carrying, or securing of obligations by the state educational institution; or
- (2) carry on a business of acting as a dealer in swap agreements.

(c) A swap agreement shall be considered as being entered into in connection with or incidental to the issuance, carrying, or securing of obligations if:

- (1) the swap agreement is entered into not more than one hundred eighty (180) days after the issuance of the obligations and specifically indicates the agreement's relationship to the obligations;
- (2) the board of trustees of the state educational institution specifically designates the swap agreement as having a relationship to the particular obligations;
- (3) the swap agreement amends, modifies, or reverses a swap agreement described in subdivision (1) or (2); or
- (4) the terms of the swap agreement bear a reasonable relationship to the terms of the obligations.

(d) Payments to be made by a state educational institution to any other party under a swap agreement shall be payable only from the same source or sources of funds from which the related obligations are payable.

As added by P.L.55-1994, SEC.2.

IC 20-12-1.3-6

Investment powers

Sec. 6. The provisions of this chapter shall not be construed as limiting or restricting the investment powers otherwise provided state educational institutions, including the power to adopt and implement investment policies under IC 20-12-1-2(a)(10).

As added by P.L.55-1994, SEC.2.

IC 20-12-1.3-7

Credit enhancement and liquidity agreements

Sec. 7. With regard to entering into any swap agreement, the state educational institution may enter into credit enhancement or liquidity agreements with payment, security, default, remedy, and other terms and conditions as determined by the state educational institution.

As added by P.L.55-1994, SEC.2.

IC 20-12-1.3-8

Enforcement of swap agreements

Sec. 8. (a) This section does not apply in cases of bad faith or actual knowledge to the contrary by a party.

(b) A party that enters into any swap agreement with a state educational institution may rely on a representation by that state educational institution that the state educational institution is authorized or empowered to enter into the swap agreement, and notwithstanding the failure by the state educational institution to comply with the provisions of this chapter, that party may enforce the swap agreement against the state educational institution, subject to the terms of the swap agreement and subject to prior claims on sources from which the swap agreement may be payable.

As added by P.L.55-1994, SEC.2.